

REMARKS

As a preliminary matter, Examiner has objected to Claim 28 because of various informalities. Claim 28 has been amended to address these informalities. Therefore, Applicant respectfully requests Examiner withdraw the objection to Claim 28 because of various informalities.

As another preliminary matter, Examiner has also rejected Claims 28, 29, and 31 under 35 U.S.C. § 112, second paragraph, as being indefinite. However, on page 4 of the current Office Action, Examiner notes that the rejection of Claim 31 has been overcome by the prior amendment. As such, Applicant understands that only Claims 28 and 29 (and *not* Claim 31) are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 28 and 29 have been amended to address Examiner's concerns. Therefore, Applicant respectfully requests Examiner withdraw the rejection of Claims 28, 29, and 31 under 35 U.S.C. § 112, second paragraph, as being indefinite.

The Examiner has provisionally rejected Claims 28, 29, and 31-34 on the ground of nonstatutory double patenting over Claim 44 of copending U.S. Patent Application No. 10/587,352. Applicant respectfully notes that this copending application issued as U.S. Patent No. 7,690,083 ("the '083 Patent"). As such, Applicant interprets the current provisional double patenting rejection to no longer be provisional, and to now be over Claim 1 of the '083 Patent.

In addition, the Examiner has rejected Claims 28, 29, 31, and 34 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,145,352 to Vickers et al. ("Vickers"). The Examiner has also rejected Claims 32 and 33 under 35 U.S.C. § 103(a) as being unpatentable over Vickers in view of U.S. Patent No. 5,251,467 to Anderson ("Anderson").

Independent Claims 28 and 31 stand currently amended. Claims 29, 30, 32-38, 40, 41, 47-50, and 52 also stand currently amended to address minor issues of form. Claims 1-26 stand previously canceled, and Claims 27, 30, 35-52 stand previously withdrawn. Claims 27-52 are currently pending. The following remarks are considered by applicant to overcome each of the Examiner's outstanding rejections to current Claims 28, 29, and 31-34. An early Notice of Allowance is therefore requested.

I. SUMMARY OF RELEVANT LAW

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The determination of obviousness rests on whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. In determining obviousness, four factors should be weighed: (1) the scope and content of the prior art, (2) the differences between the art and the claims at issue, (3) the level of ordinary skill in the art, and (4) whatever objective evidence may be present. Obviousness may not be established using hindsight or in view of the teachings or suggestions of the inventor. The Examiner carries the burden under 35 U.S.C. § 103 to establish a prima facie case of obviousness and must show that the references relied on teach or suggest all of the limitations of the claims.

II. REJECTION OF CLAIMS 28, 29, AND 31-34 ON THE GROUND OF NONSTATUTORY DOUBLE PATENTING

On page 2 of the current Office Action, the Examiner rejects Claims 28, 29, and 31-34 on the ground of nonstatutory double patenting over Claim 1 of the '083 Patent. These rejections are respectfully traversed and believed overcome in view of the following discussion.

A terminal disclaimer directed to the '083 Patent is enclosed herewith in Appendix A. Accordingly, Applicant respectfully asserts that the current double patenting rejection has been overcome. Therefore, Applicant respectfully requests Examiner withdraw the rejection of Claims 28, 29, and 31-34 on the ground of nonstatutory double patenting over Claim 1 of U.S. Patent No. 7,690,083.

III. REJECTION OF CLAIMS 28, 29, 31, AND 34 UNDER 35 U.S.C. § 102(B) BASED ON VICKERS

On page 4 of the current Office Action, the Examiner rejects Claims 28, 29, 31, and 34 under 35 U.S.C. § 102(b) as being anticipated by Vickers. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Amended, independent Claims 28 and 31 each states, in part:

“holding elements which project from the body part and are displaceable in direction of the holding elements’ outer surfaces, a free end of said holding elements being provided with a first inclined surface for supporting the body part without play on the rim or edge of the opening of an other, inner side of the thin wall;

“**wherein the supporting first inclined surface rests on the rim or edge of the opening of the inner side of the thin wall when the latch is in the mounted position....**” (emphasis added).

The holding elements of Vickers that are provided for supporting the latch are clamping elements 230, 240 pressing the rim of an opening 248 provided in a thin wall 250, see Fig. 1, 5, and 6 of Vickers. The elements (slide bolts) 150, 110 are **not** provided for supporting the latch in the break through 248 of the think wall or door panel 250 but they are provided for the slamming and latching action and for fixing the thin wall or door panel 250 against door frame 252.

Therefore, Applicants submit that the Office Action **errs** in asserting that a first included surface at the free end of the holding elements (slide bolts 110, 150) is provided for supporting the body part of the latch 10 without play on the rim of the break through. Furthermore, the Office Action again errs in asserting that the free end of the holding elements (110, 150) is further provided with a second inclined surface for slam action during mounting the latch into the break through 248.

Instead the slam action occurs after mounting the latch in the door, namely during closing the door whereby the inclined surface passes the edge of door frame 252.

The mounting the latch is done without slam action is evident in column 10, line 57 – column 11, line 28 of Vickers.

In response, Examiner asserts that the above arguments are entitled to little to no weight, as they rely solely on functional language. Examiner proceed to argue that the asserted structure of Vickers is **capable** of performing the claimed limitations.

Applicant must respectfully disagree with Examiner’s interpretation of Vickers. In particular, the slide bolts 110, 150 are most certainly **not** capable of performing the claimed limitations. However, in an effort to assuage Examiner concerns, Claims 28 and

31 have been amended to affirmatively state the **structural** limitation that “the supporting first inclined surface rests on the rim or edge of the opening of the inner side of the thin wall **when the latch is in the mounted position**”. (emphasis added). As such, the “capability” argument of Examiner is now moot, as it is abundantly clear from the figures of Vickers that the slide bolts 110, 150 do **not** ever rest on a rim or edge of the opening 248, but rather (as discussed above) it is the clamping elements 230, 240 pressing the rim of an opening 248 provided in a thin wall 250.

More specifically, the sliding bolts 110, 150 are part of the latching means contacting the frame 252. See Vickers, Fig. 12; Col. 7, Lns. 43-50. Mounting of the latch in the opening in the door panel 250 is effected by mounting clips 230. Vickers, Fig. 21; Col. 10, Ln. 57. After mounting the latch in the opening, the bolts of the latch do **not** touch the thin wall (door panel 250), but rather the frame 252. See Vickers, Figs. 5 and 6.

Since **neither** the sliding bolts 110, 150 **nor** the clamping elements 230, 240 have a “first inclined surface” as required by Claims 28 and 31, Vickers fails to disclose the above language of Claims 28 and 29.

Accordingly, Applicant respectfully asserts that Examiner has failed to establish a prima facie case of anticipation of independent Claims 28 and 31, and corresponding Claims 29 and 34 because they each ultimately depend from Claim 28. Therefore, Applicant respectfully requests that Examiner remove the rejection of Claims 28, 29, 31, and 34 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,145,352 to Vickers et al.

IV. REJECTION OF CLAIMS 32 AND 33 UNDER 35 U.S.C. § 103(A) BASED ON VICKERS IN VIEW OF ANDERSON

On page 7 of the current Office Action, the Examiner rejects Claims 32 and 33 under 35 U.S.C. § 103(a) as being unpatentable over Vickers in view of Anderson. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Claims 32 and 33 ultimately depend from independent Claim 31. As Claim 31 is allowable, so must be Claims 32 and 33. Accordingly, Applicant respectfully asserts that Examiner has failed to establish a prima facie case of obviousness of Claims 32 and 33.

Therefore, Applicant respectfully requests that Examiner remove the rejection of Claims 32 and 33 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,145,352 to Vickers et al., in view of U.S. Patent No. 5,251,467 to Anderson.

Based upon the above remarks, Applicant respectfully requests reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference with Applicant's attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,

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